

REMARKS

Claims 1, 5-7 and 15 were rejected under 35 U.S.C. §102(b) as being anticipated by Jambor (US 6,053,568). Claims 2 to 4 and 10 to 14 were allowed. Claim 8 was objected to as being dependent upon a rejected base claim but was indicated as allowable if rewritten in independent form.

In this response, Applicants have amended claim 1 within the requirements of 37 C.F.R. 1.116 to clarify its meaning and to place the application in condition for allowance and/or in better form for consideration on appeal. Claims 1-8 and 10-15 are pending.

Applicants respectfully request entry of the clarification amendment and reconsideration of the application in view of the following.

Summary of Interview

Applicants thank the Examiner for agreeing to participate in a brief telephonic interview, which took place with the Applicants' attorney, Thomas P. Carty, on August 8, 2005. In the interview, claim 1 with respect to Jambor was discussed. Applicants argued that claim 1, as properly construed, is not anticipated by Jambor, but that Applicants would be willing to amend claim 1 so as to clarify the differences to Jambor. No agreement was reached.

Rejection under 35 U.S.C. §102

Claims 1, 5 to 7 and 15 were rejected under 35 U.S.C. §102(b) as being anticipated by Jambor (US 6,053,568).

Jambor describes a lamella-type sliding roof of a motor vehicle having lamellae which, when the roof is open, are tilted upward in a spaced manner with respect to one another in a distance reducing manner.

Claim 1 now recites a top for a convertible vehicle, that includes, among other features, a rigid moveable roof part, a cover, and

. . . a linkage, to which the roof part is fixed, disposed between the outer surface of the roof part and the cover in a closed state of the convertible top, the linkage being moveable relative to the roof part during an opening movement of the convertible top . . .

Applicants have amended claim 1 in compliance with 37 C.F.R. 1.116 merely to clarify that the roof part is fixed to the linkage without narrowing its scope. Applicants submit that, even without the amendment, a person of ordinary skill in the art would construe the word "linkage" as requiring a connection or link to the roof part, and therefore the clarifying amendment does not raise a new issue requiring further consideration or search. Support for the amendment is clearly provided, for example, at page 6, lines 1-3, and in Figure 4 of the application.

In the final office action, the Examiner rejected the previous version of claim 1 by construing the claim in a manner that Applicants submit is overly broad and inconsistent with the meaning of the terms as understood in light of the specification. Specifically, the Examiner has deemed one of the two Jambor lamellae 3 as corresponding to the roof part (the left-hand lamella 3 in Figs. 1 and 2) and the structure attached to *the other* of the two lamellae 3 (the right-hand lamellae 3 in Figs. 1 and 2) as corresponding to the linkage of claim 1. Only by applying the claim language to Jambor in this manner, can the Examiner assert that the linkage of the second lamella 3 is moveable with respect to the first lamella 3. Applicants submit, however, that this construction of claim 1 is inconsistent with the plain meaning of the terms as read in light of Applicants' specification and drawings. In particular, a fair interpretation of word "linkage" would require a link or connection to the same roof part to which the relative movement feature refers.

Nevertheless, so as to remove any possibility of a wrong interpretation of claim 1 and to move the application toward issue, Applicants have amended claim 1 without narrowing its scope to expressly specify that the roof part is fixed to the linkage. Applicants submit that the structure identified by the Examiner as corresponding to the linkage of claim 1 (see attachment sheet to the final office action) is fixed to only one lamella 3 (i.e. the lamella 3 on the right side of Fig. 2 in the attachment), and that structure is not moveable relative to that same right side lamella 3 to which it is fixed.

Applicants respectfully submit that the clarifying language added to claim 1 does not raise any new issue requiring further consideration. Withdrawal of the rejection under 35 U.S.C. §102 is respectfully requested.

Claim Objections

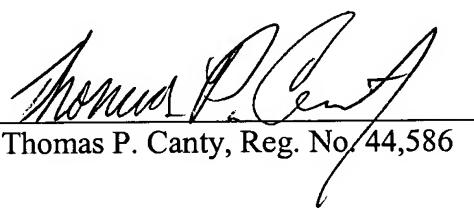
Claim 8 was objected to as being dependent upon a rejected base claim but was indicated as allowable if rewritten in independent form.

In light of the above, withdrawal of the objection is respectfully requested.

CONCLUSION

The present application is respectfully submitted as being in condition for allowance and applicants respectfully request such action.

Respectfully submitted,
DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 

Thomas P. Canty, Reg. No. 44,586

DAVIDSON, DAVIDSON & KAPPEL, LLC
Patents, Trademarks and Copyrights
485 Seventh Avenue, 14th Floor
New York, New York 10018
(212) 736-1940